

# **Towing Safety Advisory Committee Bylaws**

## **ARTICLE I            AUTHORITY**

The Towing Safety Advisory Committee (hereafter Committee) was established in 1980 by statute, the Act to establish a Towing Safety Advisory Committee in the Department of Transportation, Public Law 96-380. Revisions to this statute since 1980, including amendments by Section 621 of the Coast Guard Authorization Act of 2010, Public Law 111-281, are reflected in Title 33, United States Code, Section 1231a.

## **ARTICLE II            PURPOSE**

The purpose of this Committee is to act solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS), hereinafter referred to as "Secretary," on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. The Committee is to advise, consult with, and make recommendations reflecting the Committee's independent judgment to the Secretary on these matters and actions. Finally, the Committee is to accept specific assignments and to conduct studies, inquiries, workshops and fact finding in consultation with individuals and groups in the private sector and/or with State and local government jurisdictions in compliance with FACA to develop solutions.

## **ARTICLE III           MEMBERSHIP AND MEMBER RESPONSIBILITIES**

TSAC will be composed of 18 members who are appointed by and serve at the pleasure of the Secretary. In addition, the Commandant of the United States Coast Guard may request the Army Corps of Engineers, the U. S. Maritime Administration (MARAD), the Navigation Safety Advisory Council, and the National Boating Safety Advisory Council each to designate a representative to participate as a non-voting observer/liaison on the Committee. Each member must have expertise, knowledge, or both, and experience regarding the standards, technology, equipment and techniques that are used or are being developed for use in the inland and coastal towing industries.

### **Section 1.        Composition.**

- a. Seven members representing the Barge and Towing industry reflecting a regional geographical balance.
- b. One member representing the offshore mineral and oil supply vessel industry.
- c. One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.

- d. One member representing the holders of active licensed Masters of towing vessels in offshore service.
- e. One member representing Masters who are active ship-docking or harbor towing vessels.
- f. One member representing licensed or unlicensed towing vessel engineers with formal training and experience.
- g. Two members representing each of the following groups:
  - (1) Port districts, authorities, or terminal operators;
  - (2) Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).
- h. Two members drawn from the General Public.

Section 2.     Appointment.

- a. Members of the Committee are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the United States Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to: attend in their stead, participate in discussions, or vote.
- b. Members of TSAC, with the exception of the members appointed under ARTICLE III, Section 1, paragraph h, are appointed as Representative Members.
- c. A member appointed under ARTICLE III, Section 1, paragraph h, will be considered a Special Government Employee (SGE) as defined by Section 202(a) of Title 18, United States Code. An SGE member is subject to Federal conflict of interest laws and Government-wide standard of conduct regulations and must annually file financial disclosure reports and complete required ethics training.

Section 3.     Terms of Office.

- a. Members shall serve terms of office for three years or until replacements have been appointed. Notwithstanding special circumstances, approximately one-third of members' terms of office will expire each year. In the event the Committee terminates, all appointments to the Committee will terminate.
- b. No member may serve for more than three (3) consecutive three-year terms unless he or she is serving, or is under consideration for designation, as Chair or Vice Chair.

- c. Former members may reapply for membership in a representative category for which qualified after not being a member for a period of one (1) year.

Section 4.     Certification of Non-Lobbyist Status. No member of the Towing Safety Advisory Committee may be a registered lobbyist. If at any time after appointment a TSAC member registers as a Federal lobbyist with the Secretary of the U.S. Senate or with the Clerk of the U.S. House of Representatives, he or she must immediately inform the Designated Federal Officer (DFO). Also, before October 1st of each year, each member of TSAC appointed on or before September 1 of that year must (1) complete and sign the DHS Declaration Regarding Lobbyist Status Form, certifying that he or she is not registered as a Federal lobbyist or (2) inform the DFO that he or she does not qualify to complete the form. TSAC members must submit this Declaration to the DFO. Members who register as a lobbyist after their appointment or re-appointment to TSAC will be replaced. The DFO will assure that candidates for appointment are not lobbyists registered under section 4 of the Lobbying Disclosure Act of 1995, 2 U.S.C. 1603.

Section 5.     Security Clearances. *Not Applicable*

Section 6.     Members' Responsibilities.

- a. Membership of the Committee is constructed to balance many aspects and viewpoints of the towing industry, therefore, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at Committee meetings. The Commandant of the Coast Guard will recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced.
- b. Members of the Committee may be recommended for removal for reasons such as, but not limited to:
  - 1. Missing two consecutive meetings without a reason that is acceptable to the Chair of the Committee and the DFO, or not participating in the Committee's work;
  - 2. Registering as a lobbyist;
  - 3. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 7.     Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this Committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company

or employer. Members must hold any non-public information in confidence.

- b. The Committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of the Towing Safety Advisory Committee, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of the Committee are advisors to the agency and have no authority to speak for the Committee, the Coast Guard or for the Department outside the Committee structure.
- d. Members may not testify before Congress in their capacity as a member of the Committee. If requested to testify before Congress, members of the Committee:
  - 1. Cannot represent or speak for the Committee, DHS, any agency, or the Administration in their testimony;
  - 2. Cannot provide information or comment on Committee recommendations that are not yet publicly available;
  - 3. May state they are a member of the Committee; and,
  - 4. May speak to their personal observations as to their service on the Committee.
- e. If speaking outside the Committee structure at other forums or meetings, the restrictions in Section 7.d also apply.

## **ARTICLE IV            OFFICIALS**

Officials shall, at all times, preside over meetings to promote and ensure the most orderly and expeditious proceedings of official business. The primary duty of Officials is to promote consistency with the requirements of the TSAC Charter and the TSAC Bylaws.

### **Section 1.    Chairperson and Vice-Chairperson.**

- a. The Chair and Vice-Chair are designated by the Secretary from recommendations submitted by the Designated Federal Officer (DFO). Nominations for Chair and Vice-Chair must be submitted to the Secretary via the DFO no later than six months prior to the end of the incumbent's term. The Chair and Vice Chair positions serve staggered, 2 year terms such that each position's term does not end at the same time.
- b. TSAC Officer Nominating Ad Hoc Committee. The DFO may establish a TSAC Officer Nominating Ad Hoc Committee for the specific purpose of receiving and considering nominations from sitting TSAC members for

TSAC Chair or Vice Chair. The TSAC Officer Nominating Ad Hoc Committee shall be composed of at least five (5) TSAC members who are not eligible for consideration as Chair or Vice Chair and shall provide the DFO with a primary and alternate nomination for both the Chair and Vice Chair positions. The Nominating Ad Hoc Committee will consider input from all TSAC Committee members and will nominate at least four (4) TSAC Committee members during an administrative meeting of the full Committee, or alternatively in an administrative meeting of the Nominating Ad Hoc Committee and the DFO. The nominations will be considered by the DFO for submission to the Secretary.

- c. The Chair will conduct each meeting in general accordance with Roberts' Rules of Order, provide an opportunity for participation by each member and by any interested public attendee, ensure adherence to the agenda, and maintain order. After the meeting conclusion the Chair will prepare all recommendations for submission to the Coast Guard and certify the meeting minutes within 90 days.
- d. The Vice-Chair will act as Chair on the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair.
- e. The term of office of the Chair and Vice-Chair will be 2 years or until a new Chair or Vice-Chair has been appointed.

Section 2. Designated Federal Officer.

- a. The Designated Federal Officer (DFO) serves as the Secretary's agent for all matters related to the Committee and is appointed by the Director, Commercial Regulations and Standards (CG-5PS). In accordance with the provisions of the FACA, the DFO must:
  - 1. Approve or convene meetings of the Committee and its subcommittees;
  - 2. Approve agendas for Committee and subcommittee meetings;
  - 3. Attend all meetings;
  - 4. Adjourn meetings when such adjournment is in the public interest; and,
  - 5. Chair meetings of the Committee when directed to do so by the Director, Commercial Regulations and Standards.
- b. In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:
  - 1. Notifying members of the time and place of each meeting;
  - 2. Tracking all recommendations of the Committee;

3. Maintaining the record of members' attendance;
4. Preparing the minutes of all meetings of the Committee's deliberations, including subcommittee and working group activities;
5. Attending to official correspondence;
6. Maintaining official records and filing all papers and submissions prepared for or by the Committee, including those items generated by subcommittees and working groups;
7. Reviewing and updating information on Committee activities in the FACA database on a monthly basis;
8. Acting as the Committee's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
9. Preparing and handling all reports, including the annual report as required by FACA.

Section 3. Alternate Designated Federal Officer. An Alternate Designated Federal Officer (ADFO) serves as an assistant to the DFO and performs the functions of the DFO as required by FACA in the DFO's absence. An ADFO is appointed by the Office Chief, Operating and Environmental Standards (CG-OES).

## **ARTICLE V            MEETING PROCEDURES**

Public meetings are the prescribed forum in which the TSAC Committee conducts business, engages in discussion and officially receives and responds to taskings issued by the DFO. As such, meetings shall be formally structured and shall be conducted in accordance with the requirements of the TSAC Charter and the TSAC Bylaws at all times.

Section 1. Meeting Schedule and Call of Meetings.

- a. The Committee will normally meet at least twice a year (usually every six months). Additional meetings may be called by the DFO. The DFO must attend each meeting of the Committee.
- b. All meetings of working groups and subcommittee's must be approved in advance by the DFO and the DFO must participate in each.

Section 2. Agenda. Agendas for each Committee meeting shall be developed by the DFO in consultation with the Committee Chair and or Vice-Chair. Once an agenda has been approved by the DFO, the DFO will be responsible for distributing the final agenda to the Committee. The DFO will also be responsible for ensuring that for each meeting the agenda is published in the *Federal Register* a minimum of 15 calendar days before the meeting date.

Section 3. Quorum. A quorum (fifty percent plus one of the appointed membership) of the Committee is required to vote on issues being addressed during a Committee meeting. The DFO will determine if a quorum exists prior to each meeting of the Committee. If a quorum does not exist, the meeting may continue but no action may be taken by the Committee or the meeting may be cancelled at the discretion of the DFO.

Section 4. Tasks.

- a. The DFO retains sole authority for assigning all task statements to the Committee for consideration. The DFO may receive suggestions from Committee members, the public or the Agency in the formation of a Task Statement. It is the responsibility of the DFO to determine if the task is in accordance with the duties of the Committee as specified in the Committee's approved Charter. If, after review, the DFO determines the task is in accordance with the duties of the Committee, the DFO will place the presentation of the assigned task on the agenda for the next meeting. The DFO shall also ensure that a copy of the assigned task is placed on the Committee website in advance of the Committee meeting to ensure the public has an opportunity to view the assigned task statement.
- b. Task Statement Vetting Ad Hoc Committee. The DFO may establish a Task Statement Vetting Ad Hoc Committee for the specific purpose of coordinating the development of Task Statements for consideration by the DFO for subsequent assignment to TSAC.
  1. The members of the Vetting Ad Hoc Committee shall be appointed by majority vote of TSAC.
  2. The Vetting Ad Hoc Committee shall be composed of at least five (5) members of TSAC. Only TSAC members may be part of the Vetting Ad Hoc Committee and may refer a draft Task Statement to TSAC.
  3. A member of the Tug and Barge Sector as well as a member representing mariners must be part of the Vetting Ad Hoc Committee.
  4. A majority vote of the Vetting Ad Hoc Committee is required for a proposed Task Statement to be forwarded to the DFO for approval.
  5. The DFO has final approval regarding any Task Statement referred from the Vetting Committee to TSAC in accordance with ARTICLE V, Section 4, of these Bylaws.
- c. Once new tasking has been assigned to the Committee by the DFO, the Committee shall establish a subcommittee and vote to designate a member (or members) to serve as the subcommittee chair to prepare a formal

response to the DFO for the assigned tasking. The subcommittee chair will be responsible for organizing the subcommittee, preparing minutes of meeting from the subcommittee meetings, and for presenting the subcommittee's recommendations to the Committee for formal approval.

Section 5. Voting Procedures.

- a. Any item being presented to the Committee for the Committee's approval must be made available to the public in advance of a Committee meeting, and must be discussed by the Committee during the meeting. To be approved, the recommendation or report must receive a majority vote from the Committee.
- b. Only Committee members present at a meeting may vote on an item under consideration. No proxy votes will be allowed. All votes must be recorded in the minutes of the meeting (or on the transcript if one is taken).

Section 6. Transcripts/Minutes.

- a. The DFO will normally arrange for a transcript to be completed for each open Committee meeting. The DFO will (in consultation with the Chair or Vice-Chair) prepare minutes of each meeting and distribute copies to each Committee member. Minutes of open Committee meetings will be posted on the Committee's public website and in the [www.regulations.gov](http://www.regulations.gov) online docket for the Federal Register notice that announced the meeting. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act.
- b. The minutes will include a record of:
  1. The time, date, and place of the meeting;
  2. A list of all attendees including members, staff and the public;
  3. An accurate description of each matter discussed and the resolution, if any, made by the Committee;
  4. Copies of reports or other documents received, issued, or approved by the Committee; and
  5. An accurate description of public participation, including oral and written statements provided.

- c. The DFO must ensure that the Chair or Vice-Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 7. Open Meetings. Unless otherwise determined in advance, all meetings of the Committee shall be open and announced to the public in a notice published in the *Federal Register* at least 15 calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to the Committee. *Federal Register* notices announcing meetings will inform the public of the procedure for submitting a written statement to the Committee. To submit a written statement, members of the public should provide the written statement to the DFO in advance of a Committee meeting or they may present the material to the Committee during the 'public comment' portion of the meeting. All materials provided to the Committee will be posted to the Committee's public website and made available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record.

Section 8. Closed Meetings. All or parts of meetings of the Committee may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of Subsection (c) of 5 United States Code, 552b, the Government in the Sunshine Act (Sunshine Act). Where the DFO has determined in advance that discussions during a Committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the *Federal Register*. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman (or Vice-Chair) will order such discussion to cease and will schedule it for a future meeting of the Committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the *Federal Register* at least 15 calendar days in advance. Closed meetings can only be attended by the DFO, Committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

## **ARTICLE VI            EXPENSES AND REIMBURSEMENTS**

Financial support for meetings may be provided by U.S. Coast Guard Headquarters, Office of Operating and Environmental Standards (CG-OES) and its Vessel and Facility Operating Standards Division (CG-OES-2). All expenditures associated with the Committee must be approved by the DFO (or Alternate) in advance of being obligated. At the DFO's discretion, Committee members may be issued Invitational Travel Orders for each official Committee meeting and shall be reimbursed for travel and per diem expenses as noted in the each individual's orders, if issued.

## **ARTICLE VII        ADMINISTRATION**

The Office of Operating and Environmental Standards (CG-OES) and its Vessel and Facility Operating Standards Division (CG-OES-2) are responsible for providing financial and administrative support to the Committee. The DFO manages all Committee affairs and will provide necessary clerical support.

## **ARTICLE VIII      SUBCOMMITTEES**

The DFO may establish subcommittees for any purpose consistent with the Committee's Charter. The Chair (or Vice-Chair) may designate members from the Committee to serve on a subcommittee. The Chair may recommend to the DFO that appropriate non-members be invited by the DFO to serve on a subcommittee. The term of service of a subcommittee member shall be established in the subcommittee's task statement.

The subcommittee must be chaired by a member of the Committee. Subcommittees may not work independently of the Committee and must report their deliberations, recommendations and advice to the Committee for the full deliberation and discussion by the Committee. Subcommittees have no authority to make decisions on behalf of the Committee or the Agency and may only report directly to the Committee.

## **ARTICLE IX        RECORDKEEPING**

The DFO is responsible for maintaining all records of the Committee and its formally and informally established subcommittees in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. The DFO is also responsible for ensuring all public records associated with the Committee are placed on the Committee's public website.

Applications for appointments shall be maintained by the DFO and handled in accordance with applicable laws and regulations pertaining to FACA Committees and protection of personal identifying information and the Privacy Act.

## **ARTICLE X        RECOMMENDATIONS AND REPORTING**

Recommendations and reports received by the Committee from a subcommittee must be fully discussed, deliberated, and voted on in an open meeting. Reports and or recommendation from a subcommittee that have been properly reviewed and accepted by

the Committee must be forwarded to the DFO with a cover letter signed by the Chair (or Vice-Chair) indicating the approval by the Committee and any actions recommended by the Committee.

Reports approved by the Committee and received by the DFO must be placed on the Committee's public website. The DFO shall provide a bi-annual report to the Committee, during an open meeting, on the status of any recommendations and or reports received by the Committee in the previous two years and what actions have been taken on the recommendations.

#### **ARTICLE XI      BYLAWS APPROVAL AND AMENDMENTS**

The DFO may amend these bylaws at any time, and the amendments will become effective immediately upon approval unless another time is specified by the DFO.



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Commander Robert L. Smith, Jr.  
Designated Federal Officer

Date approved:

27 AUG 2013